Des Moines Public Hearing
December 12, 2008

Phyllis Mains: I'm Phyllis Mains of Van Wert, and I care enough about Iowa's water quality to be trained as a water monitor and that's how I found out about this hearing. And Iowa has a reputation for having some of the dirtiest water in the country and now DNR has a chance to maybe improve on that and I support and appreciate DNR's efforts to improve Iowa's waters with exceptional recreational or ecological significance and giving them special designations and protections. And I urge them to continue to work on stream designations so further segregations will not occur. DNR cannot claim existing uses do not need to be protected if the waters have not even been designated. And under Tier 2 if it is decided that is a good cause to allow more pollution then the least polluting affordable approach must be adopted and if cause means always economic necessity analysis, this is unacceptable. Any cost analysis must consider a cost benefit analysis. The economic benefits of clean water must be part of an economic necessity analysis. While I think DNR proposes a reasonable approach to alternative analysis, there must be an in-depth review by staff for every permit applicant. DNR was notified in 1997 that Iowa's Antidegredation Rules were not in compliance with Federal Law. DNR must require permit applicants to evaluate alternatives and prove that the proposed new or increased new pollution is really necessary. To comply with the Clean Water Act, all facilities must be required to do a proper T2 review before receiving increased discharge limits. DNR must not exempt facilities required to upgrade as a result of the UAA process when any T2 upgrade and/or operational modifications that's just not acceptable to not have that done. And I think this is the proper approach that will result in cleaner water for Iowa and thank you for hearing my comments.

Rich White: My name is Rich White and I'm the executive director of the Iowa Limestone Producers Association and I want to thank you for allowing me to a part of these antidegredation rulemaking. Iowans use between thirty-five and forty million tons of aggregate every year. I think it's important that we get a handle on what that means. If some of you came from maybe Eastern Iowa for example let's say you had a helicopter and you could have come here with a helicopter and you took off and you started coming toward Des Moines over the interstate and you looked down and there were dump trucks filling all four lanes of that all the way here to Des Moines. Well what forty million tons of aggregate looks like if you figure there's fifteen tons in a twenty-eight foot dump truck is that you would have to fill all four lanes of Interstate 80 all the way from the Golden Gate Bridge to the Lincoln Memorial every year. That's how much rock Iowans use. It's a big part of this state's economy. It's a critical component of Iowa's entire infrastructure. It's highways, schools, farm marked roads, sidewalks, homes, businesses even stream bank stabilizations. It's also used as agline to neutralize the state's soil and as a lot of treatment additive. Every day every one of us has our lives made better because Iowa has inexpensive and clinical supplies of aggregate. The industry I represent produces much of that aggregate, however to produce the limestone, we must discharge groundwater and rainwater that accumulates on site. We do that under an NPDES general permit #5. Now I'm not going to stand here to be an expert on antidegredation, but I studied the rulemaking and I've tried my best to understand it's overall impact. And I'd like to put on record two concerns that I have. The first is that I have concluded that this rulemaking is going to have a lot of unintended consequences to the citizens of Iowans. Consequences that they may not fully recognize. To quote the DNR's antidegredation physical impact statement regarding 2.5 designations. There

are quarry operations that do not requires dewatering, however if this option is not available, it will requires that raw materials like fresh limestone rock be quarried outside of the watershed and hauled in for projects. This may increase the cost of projects within these watersheds due to increase hauling costs of importing the raw materials from quarries outside the watershed. To many of you that may not sound like a big deal, so again I want to put this in perspective. During this year's floods, a railroad in Eastern Iowa had its track bed washed out, or a large portion of it washed out. And one of our members stayed over twenty-four hours a day to provide the rock needed to repair that damage. In total the job required two hundred and fifty thousand tons of material ranging in size from three inch ballasts to class D riprap. Now if because of antidegredation restrictions the railroad had to move that rock sixty miles instead of thirty miles the trucking costs would add 1.5 million dollars to that one project. We do this stuff all the time, trucking is a huge factor. Now it's extremely hard for me to stand here and shake and provide a figure that fits all situations that's because like most businesses limestone prices and trucking costs are subject to local markets. However, based on this one example it's not hard to see that this rule will add significant costs to many construction projects across the state. But it's not just limestone producers and their customers impacted. This rule will put a significant financial hardship on many communities. Again I'm going to quote the DNR's own Fiscal Impact Statement. Waters categorized as OIW or ONRW will make it difficult if not prevent new industries from locating in communities or elsewhere in these watershed. As a role or result, any attempt at broadly estimating a statewide cost for all potentially affected entities that would directly or indirectly affected by the application of an OIW or ONRW category will present a range in cost so wide as to be effectively meaningless. The overall cost statewide cannot be estimated with any degree of accuracy due to the absence of readily available information to thoroughly research the multitude of variables that will affect whether or not treatment improvements will be technically possible and yes if what will happen what will…will the cost be prohibited. Two, what industries may choose not to locate in a watershed or in Iowa due to OIW or ONRW characterization. I don't know how anyone can read that statement and not understand that the potential for this rule to do great economic hard to this state is there. My second concern relates to forty-two streams and lakes will receive the 202.5 outstanding water designation with the passage of this rulemaking. Section 1.3 on pages seven and eight of the Antidegredation and Implementation Process spells out a specific two step process to be followed in advising review levels. The first part is the nominating process, it discussed the burdens put on a nominating body to establish the basis for classifying the surface water as either OIW or ONRW. Those burdens include maps and other supporting documents needed to establish the existing water quality. The second part of the process describes the facts the DNR must consider when making the decision as to whether or not it will classify a nominated surface water as OWI or ONRW. At the time of the DNR brought this rulemaking to the Iowa Environmental Commission on October 14, it did not include those forty-two water bodies. The Iowa Environmental Council simply admitted the rulemaking to include these waters, as I just stated, the implementation procedure clearly spells out a review that must be followed prior to a public hearing. Now as I understand the rule, if theses forty-two are not part of this rulemaking by amendment, then the nominating process would have been required before they could receive the 2.5 OIW designation. If that is the case, amending the rule on October 14 made it possible to skip both the nominating process and the DNR evaluation. This evaluation would have included among other things a DNR review of the social and economic impact of Tier 2.5 or 3 antidegredation protection. It seems to me that if the streams added by amending the rule

deserve the protection given to them, they will be able to stand up to the open review process set out in the rule. Because of this, I am asking that all OIW designations be removed from this rulemaking and that a moratorium be put on any new Tier 2.5 or 3 designation until such time as the Department can come forward with a Fiscal Impact Statement that shows that they have a much clearer understanding of what this rule is going to cost Iowa's taxpayers. Thank you.

Virginia Soelberg: I'm here to support strong protective rules for Iowa water's to prevent further decline in water quality in Iowa. Iowa needs to protect its water quality and to do this we need rules that will limit new pollution and protect existing uses of these waters. Certain waters are of a special high quality and need stringent protections against permitting any new source of pollution. Specifically I'm thinking of the Iowa Great Lakes and the cold water trout streams of northeastern Iowa. These need to be designated outstanding Iowa waters and this designation in Tier 2.5 need to be a part of the rules. These are Iowa's treasures and deserve strong protection. These rules will not increase cost to communities unless there is a proposed increase of pollution that needs to be addressed. We certainly do need to deal with any situations that would further increase pollution of our water bodies. At least consider not only the additional cost of wastewater treatment that might be needed but also the financial benefits of maintaining higher water quality. The economic benefits of clean water must be given full consideration and any economic necessity analysis. There certainly are economic benefits to clean water, and any analysis of the cost-benefit ration needs to be given a thorough staff review. I'm here because clean water in Iowa is important to me, besides drinking the water, I also use the waters of Iowa as a primary recreation sort. I paddle and help groups clean up such as Project Aware and the Des Moines River Cleanup. I take my grandchildren wading in Beaver Creek near home and swimming in nearby lakes. I'm a regular producerman and volunteer in water quality monitoring efforts especially in Beaver Creek and my hometown of Johnston. In Johnston we've proposed a canoe launch on Beaver Creek recognizing recreational value of the creek. Iowa has very few natural areas left and the ones we do have tend to be along our rivers and streams. Please adopt strong antidegredation rules. Thank you.

Shannon Garretson: Hello I'm Shannon Garretson and I'm speaking to you on behalf of the Iowa Environmental Council. First off I would like to recognize the effort and hard work of the Department staff to develop this document, thank you very much. Clean water in Iowa is a very limited resource. Clean water benefits all of our citizens and is crucial to our variety of ecosystems. For this the council wishes to show our overall support for these rules. We will have or will be submitting written comments to clarify some language and other minor details at a later time. We encourage the Department to continue moving forward with this implementation procedure. One aspect of this document that I would like to emphasize is the importance of the list of Outstanding Iowa Waters or the OIW List. This list displays the Department's willingness not only to prevent any further degredation of water quality in Iowa but also to acknowledge that some of our waters are in fact pristine and should remain that way. These rivers and streams and lakes represent a very small percentage of water bodies in our state. Less than a half of a percent of river stream miles and eight percent of our lake reservoir acres. These waters are very limited geographically from our cold water streams in the northeast part of the state to our great lakes in the northwest. By populating and designated waters on the Outstanding Iowa Water list, the department has demonstrated which waters are in fact outstanding and set the bar so to speak for waters to be added or removed to this list. I respect

the daunting task the rulemaking that is associated with any changes to the antidegredation implementation procedure. This is why I encourage the Department to keep the forty-six rivers or stream segments and seven lakes listed as outstanding. We're already engaged in a rulemaking procedure to improve Iowa's water quality, this is also allow citizens to participate in the public comments to discuss the benefits of clean water to all of us, and add more protection to some of our waters that are already considered high quality. Thank you again for the time and effort taking this important step in making sure Iowa has the highest quality of waters possible.

Bill Gahan: Good morning my name is Bill Gahan, I work for Martin Marietta one of the largest rock producer quarries, companies here in the state of Iowa and also throughout the country. I appreciate your time and attention to hearing some of my concerns about these antidegredation rules. You know of course everybody in this room wants cleaner water. I think we all need to understand is at what cost those clean waters come with and what unintended consequences might be a result of some of these rules. These rules have two basic pieces to it which really concern me. They both concern the Tier 2.5 and 3 designations. Under those designations it will become almost impossible for any quarry that needs to change its permit to get a new permit. Also, any quarry that runs out of reserves, we have a finite amount of reserves at each one of our quarries, anytime any one of our quarries runs out of reserves it will not be able to move and open up a new quarry. Both these situations are considerable impacts to the people of Iowa. Rich just stole quite a bit of my presentation so I'm going to repeat a lot of what he said. I was going to read the excerpt that said rock might have to be hauled in from out of these watershed areas and Rich gave an example of what that might cost. Now I'll just give you one more example. Grain energy is a big item here in Iowa, we all see a lot of windmills going up, so now the accounting for those windmills to consume about over a thousand tons of material of crushed rock in order to build these facilities. If these quarries are forced to move out of these watersheds and if they're forced to move fifty miles farther away, each one of these windmill farms is going to cost an extra three million dollars. Now you talk about some pretty significant numbers. Now that appears to be a fairly insignificant thing to go through, but it's not only the three million dollars, there's also a lot of other issues that go along with hauling this rock farther distances. You're talking about a lot more wear and tear on all of our roads, which will increase the cost of maintaining those roads, makes you put more trucks on the highway hauling rock around which could be a safety issue, more trucks running, you're running or consuming a lot more diesel fuel, no one wants to see that these days. More trucks on the road also emit a lot more diesel fumes and nobody wants that these days either. You know we could argue about whether the extra cost both economic and other is justified if there was some benefits to go through all that. I can tell you that rock quarries are not the problem with the quality of water in Iowa. A properly run rock quarry does not discharge any pollutants. We might move some stuff around, but the stuff that's already in our waters. Another issue that really bothers me is how these 2.5 and 3 tier level streams have been designated up to this point. I don't think that if we go through some of these alternative analysis that we've been talking about today, that if we start using data from the 1980's, the DNR is going to be real impressed with our analysis. So I would encourage us to go back, look at these forty-five or whatever streams it is and make sure as Rich says that today they still do live up to what we think they are or what they were twenty-five years ago. If they're still pristine waters, well then let's call them 2.5, no problem with that, but I think there should be some level of review done. So during these times of economic recovery that we're going through cause we all know that things are going too good outside right now in our

economy right now, we don't need extra costs to drive up to the taxpayers of Iowa. The vast majority of our products are used in infrastructure projects, whether they're schools or highways, sewer projects whatever you want to talk about, anything that's being built is being built with our products so during this time of economic recovery let's make sure that whatever we do to these rules make a difference to improve the quality of our water, not just drive up the cost for our taxpayers.

John Kulper: Thanks and as some of these others have I want to voice my appreciation for your efforts and I'm sure you I had more hair before you started this. I just want to address a couple of concerns my colleagues Rich and Bill have done a good job of bringing up some of the financial impacts to the industry I work in but you know, nobody here today I think is going to sit and twirl their mustache and cackle against water quality or antidegredation or anything along those lines. What everybody's here goal is to make it something that will work and there's some holes in logic I think that are proposed and hopefully through this process we can work some of those out. One thing of my concerns that I've asked before is that these regulations as proposed won't allow for a discharge without review and some expense and subjectivity that can actually improve water quality. In the case of our quarries, we are in essence, discharging groundwater into surface water and from the time this water quality is brought up, there is a mantra that you've heard from time to time that dilution is the solution to pollution. Not under these rules, that's not going to be allowed, regardless of how clean. Again, that one molecule will prevent you from discharging to the water. And another point that I would like to address is that we have in documents provided by the DNR to address some of these issues, they've looked at the Cedar River watershed and its on the list for nitrates and bacteria I believe. And when you look at that, and you look at the percentage of the impact that is created by those of us who are regulated by our discharges through NPDES through the state and through meeting federal regulations, we are such a small, small portion of any of the constituents of concern that are in that water body. DNR has identified that 91% of the issues affecting the Cedar River are non-point sources. So I question the ability of the Antidegredation proposal of being able to affect its intended use. I wanted to touch on the criteria for adding these additional forty-six streams which I think Bill showed that…spoke well on that looking back at 1980's data and assuming that's the water quality that we have there now is…obviously has some questionable logic there. The mass loading concept itself is a core of one of the problems I see here, there may be constituents of concerns where mass loading would be applicable to others but when you look at the Iowans and the constituents there reaching or exceeding the TMDL limits that we're looking at, the most of those constituents could better be measured through concentration than through mass loading idea. In additionally, there may be some time or appropriateness to addressing stream lining of this process, an issue that is through the fiscal impact statement that the Department put together, the cost to determine whether or not you would be allowed to discharge on the low side is going to be estimated at about four thousand dollars, on the high side it would be about sixteen thousand dollars. Those numbers are pretty significant to a lot of us and especially when it doesn't even address whether or not you could get your permit to discharge and what other costs would be associated meeting the requirements that discharge may be subject to. So those were my comments, thanks.

Todd Clock: Bill and Rich took all my comments.

Debbie Neustadt: I'm used to talking to a classroom so I just work as well without a paper in front of me, I work better without paper in front of me than with paper in front of me. I teach this concept to my students about our natural resources and Iowans like start way back when, when the King had everything and anybody that wanted to come and get their stuff, well he could kill if he had to and there were things like kidnappings and ransoms and things like that were a normal way of doing things. Then came along the Magna Carta and the Declaration of Independence and everybody was given the right to have resources that the King could only have, the right to clean air, clean water, those kinds of things. Civil rights went along with it, but I think those are all important rights that we all have. No one has a right to pollute, I don't have the right to drive a car, the state gives me that right and if I refuse it then that right is taken away from me and you can ask the Department of Transportation about my driving record and see that they are good at keeping track of whether I am a worthy enough person to drive a car. So in 1972 we had the clean water act passed and it's taken awhile for the State of Iowa to kind of get on board with what's going on, it's taken them a lot of threats, a lot of rulemaking, but we're there. This is great that you guys are doing this. I have wanted this for ten years, this is great and I'm glad that you guys have decided to go with implementing this outstanding water process, they've done it with confidence, it was a citizen process and as soon as we get all this down, we'll have citizens that know how to do this and will nominate more waters. We'll get more waters protected, as a mother I have taken my children out to enjoy the natural world and now they're in their twenties so I'm glad that officials here in the state of Iowa recognize that if we're going to keep young people here in the state, they have to have some place to recreate, so that's so well known now that we have places like the Principal Walk and what the city has done to their Great Lakes Formed by the quarry systems that we have here in Iowa. So it's something that we all know we gotta have here in Iowa. We gotta have our quality of life in Iowa depends on having natural resources that our citizens can enjoy. And when my son was little I took him to French Creek and it's a beautiful place and my youngest son now wears a T-shirt that says Cprotect French reek, I wish there were more of them but there's not enough of them. And then my oldest son was with me and I didn't see this but he swears he saw an otter go after a trout in French Creek, and he just got back, my twenty-five year old from going to Antarctica so he saved up his money and went to Antarctica, he's just that kind of person. So I hope that one of these unintended consequences of this Antidegredation rule is to have more river otters and more trout than we have in the streams that we already have now. And that would be something I would like to see happen. I thank the Department for working on this and we'll just keep on going.

Mike Delaney: My name is Mike Delaney, I'm president of the Raccoon River Watershed Association. I know people personally who have left Iowa because of the degredation of trout streams that they fished in for years. Nearly all business could claim some cost to their bottom line if they environmental cost of their operations were somehow factored into their business model. Iowa water is bad and getting worse fast, stopping the degredation is a noble goal. I'm not sure if this process will do the job because of the importance of non-point sources of pollution in the state of Iowa. However, any improvement is better than none. The limestone thing I don't get, is it arsenic? I mean if it's just powder then why wouldn't a contained system keep that out of the stream? I don't know anything about your business but I hope that limestone processing is not the deal breaker when we have much worse contributors to the degredation of our streams. Thank you.

Linda Kinman: I'm Linda Kinman and I'm here on behalf of Des Moines Water Works to make comments in support of the proposed Antidegredation Rules. We believe the proposed rules will better protect instream water quality as the level of water quality necessary to protect existing uses including source water for public drinking water. We do however want to emphasize that according to the state non-point source management program done in 2000 prepared by the Iowa Department of Natural Resources, that more than 80% of Iowa's landmass is devoted to production agriculture and as could be expected, most of Iowa's non-point pollution is generated from agricultural activities. Agricultural non-point source pollution will continue to be unregulated and unenforceable without approval of these antidegredation rules. A consequence of these rules is that they may restrict economic development within cities with insufficient wastewater capacity to accommodate additional discharges seeking new or expanded permits will also be affected by this rule. Des Moines Water Works believe these are reasonable expectations based on the expectation that Iowa is committed to clean water. It must also be said that this state's largest industry and the industry that contributes the greatest water quality impairment will largely be unaffected by this rulemaking. Therefore water quality enhancements in Iowa will only be achieved in the smallest of increments. Des Moines Water Works believes that protecting surface water sources used for drinking water is an extremely high priority and one in which Iowans support. By approving Antidegredation rules we are taking one more step toward better protection of drinking water sources in Iowa and we encourage approval of the rules.